

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0158**

**Use Tax**

**Calendar Years 1995, 1996, and 1997**

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**ISSUE(S)**

I. **Use Tax** – Taxable purchases

**Authority:** 45 IAC 2.2-3-20

Taxpayer protests the use tax on items that have sales tax assessed and paid.

II. **Tax Administration** – Penalty

**Authority:** I C 6-8.1-10-2.1; 45 IAC 15-11-4

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is an accounting/consulting firm that has no sales of tangible personal property. Taxpayer failed to pay tax on the purchase of computer components, software, office supplies, publications, and other taxable items. At audit, taxpayer disagreed with the auditor on several items but failed to provide proof. In a letter dated March 18, 1999 taxpayer stated it could produce invoices showing tax paid, that the dinner party and lawn application were service items and, therefore, not subject to sales tax, and the software, publications, and supplies were purchased out of state, therefore exempt. After many cancelled hearings and attempts in resolving the issue, a hearing was held on May 7, 2003.

I. **Use Tax** – Taxable purchases

**DISCUSSION**

At audit taxpayer was assessed use tax for items that did not include sales tax and items on its depreciation list where no invoices were presented. At hearing, taxpayer stated he would supply copies of invoices by May 14, 2003.

Taxpayer has not provided the department with proof that the audit is in error.

**FINDING**

Taxpayer's protest is respectfully denied.

II. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer did not protest the penalty. The department addresses the penalty issue as a matter of courtesy.

Taxpayer failed to remit use tax as required under 45 IAC 2.2-3-20, which is clearly negligent. Taxpayer is a certified public accountant and aware of the use tax laws of the State of Indiana.

**FINDING**

Taxpayer's protest is respectfully denied.